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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 222.

WILLIAM MOORE ET AL., APPELLANTS,

vs.

R. J. McGUIRE ET AL., APPELLEES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

SUPPLEMENTAL POINTS FOR APPELLEES.

At page 69 of the brief for the appellants the position is taken that the boundaries between States were fixed by act of Congress, and for that reason the controversy directly raises a Federal question.

The court, however, is without jurisdiction in this instance for the following reasons:

First. The right claimed by the appellants is a matter of fact, to be determined by the evidence showing or tending to show the location of the boundary line between States, and it has been held that where it appears that the plaintiff's rights depend on questions of fact, as to whether the land in suit was within the boundaries of an original grant, it is

a question of fact, and therefore not within the jurisdiction of the Federal courts;

Joy *vs.* St. Louis, 122 Federal, 524.

Affirmed by the Supreme Court in 201 U. S., 332.

To the same effect:

Fihliol *vs.* Tourney, 119 Federal, 974.

Affirmed in 194 U. S., 356.

Second. It is also contended that the court has jurisdiction because the parties were claiming grants from different States. In the Supreme Court of the United States, in Stevenson *vs.* Fain, 195 U. S., 165, it was held that the circuit court did not possess original jurisdiction over controversies where citizens of different States claim grants from different States by reason of the subject-matter.

It appears that the parties to these proceedings are citizens of different States, but none are citizens of Arkansas.

Very respectfully submitted,

ALEXANDER Y. SCOTT,
For Appellees.

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